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EXAMINER

SWEARINGEN, JEFFREY R

ART UNIT PAPER NUMBER

2145

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/998,734

Applicant(s)

LYNN ET AL.

Examiner

Jeffrey R. Swearingen

Art Unit

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4-9,11-14,16,17,19-21 and 25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-9,11-14,16,17,19-21 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/28/2005 has been entered.

### ***Response to Arguments***

2. Applicant's arguments filed 10/28/2005 have been fully considered but they are not persuasive.
3. Applicant has not responded materially to the rejections raised under 35 U.S.C. 112, first and second paragraph.
4. Applicant's arguments are toward the amended claims, which have been treated herein.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

7. The limited specification that Applicant has provided does not give sufficient detail to support the amendments to the claims as submitted on March 28, 2005. Paragraph 0024 of the disclosure is the limit of what Applicant has used to describe the speed change subject matter. No statement in this paragraph

Art Unit: 2145

gives support for the new amendment of *selecting an enclosure services module on the first channel, the enclosure service module being a last enclosure services module*. No support is given for *selecting any enclosure services module*.

8. Claims 1-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

9. Applicant has not given sufficient information in paragraph 0024 of the disclosure to allow one of ordinary skill in the art to implement the invention. Applicant has not explained what is meant by *waiting for an enclosure to come up*. Applicant has not explained how to wait for an enclosure to come up on a second channel. Applicant has not explained the difference between an *enclosure service module* and an *enclosure*. Applicant has not explained how to select an enclosure services module. Applicant has not explained how to check whether the selected enclosure service module is the first enclosure service module on the first channel. Applicant has further not provided any support for the repetitive steps presented in claim 25.

10. Claim 9 is not enabled because one of ordinary skill in the art would be unable to understand which direction the speed change frames are being sent. Applicant claims *the bridge controller sends a speed change frame to each of the plurality of enclosure service modules on the first channel in sequence from the last enclosure services module to the first enclosure services module*. Applicant has previously stated in claim 9 that the system comprises in part *a plurality of enclosure services modules, each on the first channel connected in sequence from a first enclosure services module and successively connected to successive enclosure services modules to a last enclosure services module and each on the second channel connected in reverse sequence from the last enclosure services module and successively connected to the successive enclosure services modules to the first enclosure services module*. There is also no physical relationship present in claim 9 to connect the bridge controller to the enclosure services modules.

Art Unit: 2145

11. Claim 25 is further not enabled because there is no explanation on how to repeat the steps (which have not been explained) or what the end condition of this claim entails (e.g. until the first enclosure service module on the first channel is selected and receives the speed change frame).

12. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

13. Claims 1 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

14. Claim 1 is highly difficult to comprehend to one of ordinary skill in the art. One of ordinary skill would find the phrasing of *selecting an enclosure services module on the first channel, the enclosure service module being a last enclosure services module* to be indefinite since the first half of this phrase indicates that more than one enclosure service module has the chance of being selected and the second half indicates that only one module – the last module – can be selected. Part d of this claim is also indefinite, as one of ordinary skill in the art would not be able to definitely know what is meant by *when the enclosure comes up on the second channel, checking whether the selected enclosure service module is the first enclosure service module on the first channel* as the wording brings into question whether one item can actually be more than one item (e.g. can a *selected enclosure module* be **both** a *first enclosure service module* and a *last enclosure service module*) at the same time.

15. Claim 25 is highly difficult to comprehend to one of ordinary skill in the art. One of ordinary skill in the art would have difficulty knowing definitely what applicant means by “next successive to the selected enclosure services module”. One of ordinary skill would have difficulty understand what Applicant means by a module that is next successive to a module and have (sic) not received the change speed frame.

***Claim Rejections - 35 USC § 102***

Art Unit: 2145

16. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

17. Claims 1, 9, 10-12, 14, 16-17, 19-21 are rejected under 35 U.S.C. 102(a) as being anticipated by Fibre Channel Framing and Signaling working draft proposal, Rev. 1.30, published July 9, 2001, hereafter referred to as FC-FS Draft Standard.

18. Regarding claim 1, the FC-FS Draft Standard discloses a multi-ported system with two links that allow for speed negotiation between ports on a channel. The Speed Negotiation algorithm asks for a speed change and then alters the speed of the channel based upon that request. [See FC-FS Draft Standard, pages 532-533.] The diagram shown only presents two ports, but since the Speed Negotiation algorithm works in the Fibre Channel system, which commonly utilizes multiple ports in a daisy chain or loop, the diagram could be inherently extended to cover all ports in the chain. A bridge controller is taught on pages 20-21 of the FC-FS Draft Standard. The presence of more than two ports is clearly taught on page 17 of the FC-FS Draft Standard. "Fibre Channel may be implemented using any combination of the following three topologies: a) A point-to-point link between two N\_Ports; b) A set of N\_Ports interconnected by a switching network called a Fabric; and c) A set of N\_Ports interconnected with a loop topology as defined in FC-AL-2." A set includes more than two ports. By this rationale claim 1 is rejected.

19. Regarding claim 9, the limitations of this claim are substantially the same as the limitations of claim 1. Therefore the rationale for rejecting claim 1 is applicable for rejecting claim 9. By this rationale claim 9 is rejected.

20. Regarding claim 11, the FC-FS Draft Standard is applied as in claim 10. The FC-FS Draft Standard further discloses that Fibre Channel is bi-directional in nature. [See FC-FS Draft Standard, page 17, section 4.1.] By this rationale claim 11 is rejected.

Art Unit: 2145

21. Regarding claim 12, the FC-FS Draft Standard is applied as in claim 10. The FC-FS Draft Standard deals with fibre channel devices being connected. [...specifies a variety of media, and associated drivers and receivers capable of operating at various speeds. See FC-FS Draft Standard, page 17, section 4.1.] By this rationale claim 12 is rejected.
22. Regarding claim 14, the FC-FS Draft Standard is applied as in claim 10. Examiner takes Official Notice that a microprocessor can be integrated into a node. Microprocessors were well known in the art at the time of the invention and had been in use in multiple applications in the networking arts for decades preceding the invention. The addition of a microprocessor is commonplace for most networking applications. By this rationale claim 14 is rejected.
23. Regarding claim 16, the limitations of this claim are substantially the same as the limitations of claim 1. Therefore the rationale used to reject claim 1 is also used to reject claim 16. By this rationale claim 16 is rejected.
24. Regarding claim 17, the FC-FS Draft Standard is applied as in claim 16. The FC-FS Draft Standard discloses having a forward and a reverse connection between two nodes. [See FC-FS Draft Standard, page 532, Figure 58.] By this rationale claim 17 is rejected.
25. Regarding claim 19, the FC-FS Draft Standard is applied as in claim 18. The FC-FS Draft Standard further discloses the presence of a controller and nodes [*a bridge controller and enclosure service modules*. See FC-FS Draft Standard, page 21, Figure 3.] By this rationale claim 19 is rejected.
26. Regarding claim 20, the FC-FS Draft Standard is applied as in claim 19. The FC-FS Draft Standard further discloses transmitting information between nodes in a frame format. [See FC-FS Draft Standard, page 36, section 5.1.] The FC-FS Draft Standard deals with fibre channel devices being connected. [...specifies a variety of media, and associated drivers and receivers capable of operating at various speeds. See FC-FS Draft Standard, page 17, section 4.1.] By this rationale claim 20 is rejected.
27. Regarding claim 21, the FC-FS Draft Standard is applied as in claim 20. The FC-FS Draft Standard further discloses passing a command signal to change a parameter between nodes using a channel. [See FC-FS Draft Standard, pages 532-546.] By this rationale claim 21 is rejected.

Art Unit: 2145

28. In regard to claim 25, FC-FS has provided for a repetition of functions on page 17 by defining Fibre Channel as being implemented by using any combination of three listed topology preferences. Because the speed change is defined for one example step as shown in the rejection of claim 1, and the example was repeated using a combination of topologies, the speed change was repeated through the entire combination of topologies.

***Claim Rejections - 35 USC § 103***

29. Claims 4, 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over the FC-FS Draft Standard.

30. Regarding claim 4, the FC-FS Draft Standard is applied as in claim 3. The FC-FS Draft Standard further states that the Speed Negotiation algorithm is specified for only one port at a time, but fails to explicitly state that each port in a channel must be negotiated individually in order. However, the Speed Negotiation algorithm is applied between links as shown in Figure 58. In Figure 6 [page 24] ports are shown in a loop topology. It would be obvious to one of ordinary skill in the art that in order to negotiate speed on all ports in a channel, one at a time, that they would have to be done in consecutive order after each port has its individual speed negotiated based upon the limits of the Speed Negotiation algorithm as stated in Section 29 of the FC-FS Draft Standard. By this rationale claim 4 is rejected.

31. Regarding claim 6, the FC-FS Draft Standard is applied as in claim 4. The FC-FS Draft Standard deals with fibre channel devices being connected. [...specifies a variety of media, and associated drivers and receivers capable of operating at various speeds. See FC-FS Draft Standard, page 17, section 4.1.] By this rationale claim 6 is rejected.

32. Regarding claim 7, the FC-FS Draft Standard is applied as in claim 4. The FC-FS Draft Standard further discloses transmitting information between nodes in a frame format. [See FC-FS Draft Standard, page 36, section 5.1.] By this rationale claim 7 is rejected.

33. Regarding claim 8, the FC-FS Draft Standard is applied as in claim 4. The FC-FS Draft Standard further discloses switching speed within 1 millisecond from the time the algorithm asks for a speed



Art Unit: 2145

change. [Examiner considers this to meet the criteria of "on-the-fly." See FC-FS Draft Standard, page 533.] By this rationale claim 8 is rejected.

34. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over the FC-FS Draft Proposal and Wall et al. (U.S. Patent No. 6,507,923).

35. Regarding claim 5, the FC-FS Draft Proposal is applied as in claim 4. The FC-FS Draft proposal fails to explicitly disclose use of a third channel in the system.

36. However, Wall discloses a Fibre Channel system that can accommodate up to sixteen separate channels. [See Wall, column 2, lines 60-65.]

37. It would have been obvious to one of ordinary skill in the networking art at the time of the invention to combine the teachings of Wall and the FC-FS Draft Proposal. The addition of extra channels allows for greater troubleshooting abilities in a more complex Fibre Channel system. [See Wall, column 1, line 29 – column 2, line 57.] The FC-FS Draft Proposal gives motivation for the combination by stating that it can allow for improvements, clarifications, and other capabilities, which will improve the performance of Fibre Channel products and fit those products for new applications. [See FC-FS Draft Proposal, page ii, Abstract.] By this rationale claim 5 has been rejected.

38. Claim 13 rejected under 35 U.S.C. 103(a) as being unpatentable over the FC-FS Draft Proposal and Mulvey et al. (U.S. Patent No. 6,629,216).

39. Regarding claim 13, the FC-FS Draft Proposal is applied as in claim 10. The FC-FS Draft Proposal fails to disclose the ability to bypass a disk drive.

40. However, Mulvey discloses a fibre channel system that has the ability to bypass disk drives. Mulvey discloses a by-pass selector section, which can bypass a disk drive. [See Mulvey, Abstract. See Mulvey, column 2, lines 31-49.]

41. It would have been obvious to one of ordinary skill in the networking art at the time of the invention to combine the teachings of the FC-FS Draft Proposal and Mulvey for the purpose of preventing

Art Unit: 2145


disruption of the system if one drive goes bad. [See Mulvey, column 1, lines 56 – 67.] The FC-FS Draft Proposal gives motivation for the combination by stating that it can allow for improvements, clarifications, and other capabilities, which will improve the performance of Fibre Channel products and fit those products for new applications. [See FC-FS Draft Proposal, page ii, Abstract.] By this rationale claim 13 has been rejected.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571) 272-3921. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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